STATE OF NEW YORK

10704

IN ASSEMBLY

July 1, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to electronic health products and services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 42 to read as follows:

ARTICLE 42
ELECTRONIC HEALTH PRODUCTS AND SERVICES

Section 1100. Definitions.
1101. Electronic health products and services; privacy.

§ 1100. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Deactivation" means a user's deletion, removal, or other action made to terminate his or her use of an electronic health product or service.

2. "Electronic health product or service" means any software or hardware, including a mobile application, website, or other related product or service, that is designed to maintain personal health information, in order to make such personal health information available to a user or to a health care provider at the request of such user or health care provider, for the purposes of allowing such user to manage his or her information, or for the diagnosis, treatment, or management of a medical condition.

3. "Health care provider" means:

(a) a hospital as defined in article twenty-eight of the public health law, a home care services agency as defined in article thirty-six of the public health law, a hospice as defined in article forty of the public health law, a health maintenance organization as defined in article forty-four of the public health law, or a shared health facility as defined in article forty-seven of the public health law; or

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(b) a person licensed under article one hundred thirty-one, one hundred thirty-one-B, one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred fifty-three, one hundred fifty-four, one hundred fifty-six or one hundred fifty-nine of the education law.

4. "Personal health information" means any individually identifiable information about an individual's mental or physical condition provided by such individual, or otherwise gained from monitoring such individual's mental or physical condition.

5. "Other personal data" means any individually identifiable information about an individual provided by such individual, or otherwise gained from monitoring such individual, other than personal health information.

6. "User" means an individual who has downloaded or uses an electronic health product or service.

§ 1101. Electronic health products and services; privacy. 1. Any entity that offers an electronic health product or service, shall obtain consent from a user before collecting any personal health information or any other personal data from such user.

2. In order to obtain consent in compliance with subdivision one of this section, an entity offering an electronic health product or service shall:

(a) disclose to the user all personal health information or other personal data such electronic health product or service will collect from the user upon obtaining consent;

(b) disclose to the user any third party with whom such user's personal health information or other personal data may be shared by the electronic health product or service upon obtaining consent;

(c) disclose to the user the purpose for collecting any personal health information or other personal data; and

(d) allow the user to withdraw consent at any time.

3. No electronic health product or service shall collect any personal health information or other personal data beyond which a user has specifically consented to share with such electronic health product or service under subdivision one of this section.

4. An electronic health product or service shall delete or otherwise destroy any personal health information or other personal data collected from a user immediately upon such user's request, withdrawal of consent; or upon such user's deactivation of his or her account.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law.